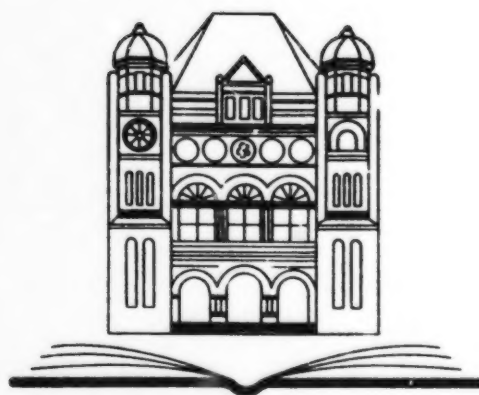
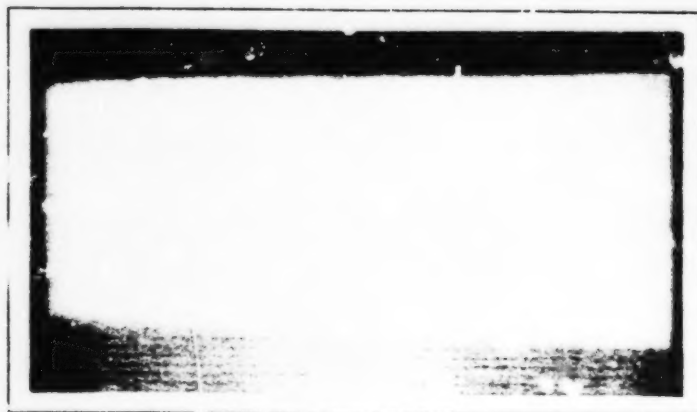
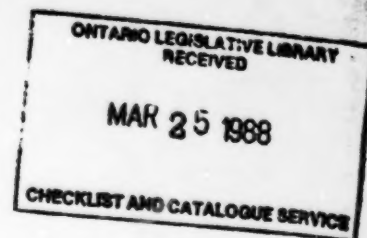




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**MEECH LAKE: IMPLICATIONS FOR
FEDERAL-PROVINCIAL
FISCAL RELATIONS**

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INTRODUCTION

The distinguishing feature of a federal system of government is that it provides for a division of governmental powers between two orders of government, the existence of which is guaranteed by a written constitution specifying the powers of each. It is in this sense that each order of government may be said to be autonomous. In a federal system, each order of government has a life of its own: neither side is subordinate to the other.¹

The division of jurisdictional spheres in Canada is spelled out primarily in Sections 91 to 95 of the Constitution Act, 1867. The federal government, for example, may pass laws respecting trade and commerce, banking, the post office, etc. The provinces were assigned, among other areas, property and civil rights, education and matters of purely local concern. The meaning of the Canadian constitution and the precise way that it delineates legislative authority is furthermore subject to the interpretations given to it by the courts, as well as to the agreements and accommodations arrived at by the two levels of government.

Even when the delineation of authority is quite clear there have been considerable joint efforts in mounting programmes. Many of the measures which make up the bulk of Canada's social programmes fall within the constitutional sphere of the provinces. Health, welfare and education make up significant portions of provincial budgets. Without federal government financial support, many provinces would be unable to provide adequate levels of service. Even Ontario receives approximately 15 percent of its revenues from the federal government.² The power of the federal purse has allowed it to exercise some degree of authority in areas from which it is formally or constitutionally prohibited.

The proposed constitutional amendments embodied in the recent Accord will produce a somewhat different division of powers. One of the more controversial amendments is the recognition of Quebec as a distinct society. In addition, the provincial governments will, in future, have a say in the appointment of Supreme Court justices, senators and a greater say in immigration policy. There are also two amendments, Section 106A dealing with shared-cost programmes and Section 40 dealing with transfers of

legislative authority, which directly affect federal-provincial fiscal arrangements. Section 106A provides an opting-out provision whereby a province can decide to opt-out, with reasonable compensation, of future shared-cost programmes which fall within an area of exclusive provincial jurisdiction if the province provides a programme "compatible with the national objectives." Examples of previous shared-cost programmes of this kind are the Canada Assistance Plan (CAP) and the Canada Health Act. Section 40 will permit a province to retain its legislative jurisdiction and to receive reasonable compensation for a programme in the event of a constitutional amendment transferring to the federal government legislative competence over an area previously assigned to the provinces. There have been two examples of this kind of transfer of power: the constitutional amendments 91(2A) and 94A empowering the federal Parliament to administer an unemployment insurance scheme and old age pensions respectively.

These two newly proposed opting-out provisions have been the subject of much discussion, with supporters and critics disagreeing over a range of issues. Some questions that have been raised regarding the impact of these proposed amendments are:

- Will the present ensemble of programmes be threatened?
- Will these two amendments decentralize the Canada federation? Will the opting-out clauses lead to a patch-work of programmes, thereby undermining the power of the federal government? Or, rather, will the explicit recognition of the federal spending power in the constitution lead to greater federal involvement in national programmes?
- Will there now be more frequent resort to the courts in arbitrating federal-provincial fiscal arrangements? Will the threat of opting-out of shared-cost programmes by the provinces and the federal threat to withdraw from the field tend to promote negotiated, rather than legally enforced, decisions?
- Will the new provisions tend to improve or hinder the chances for future national social programmes? What effect will these new amendments have on the process of federal-provincial negotiations?

This paper will examine some of the possible effects which the Constitutional Amendment 1987 could have on federal-provincial fiscal relations. The focus of the paper will be primarily on Sections 106A and 40 of the Accord which

spell out the provinces' rights to opt-out of new programmes. It will first look at some of the more important theories of how our federal system should and does operate. It will also present a brief history of federal-provincial fiscal arrangements and relevant constitutional amendments. Finally, some scenarios of possible negotiating positions and tactics for future federal-provincial relations under the new Accord will be outlined.

THEORIES OF FEDERALISM

Among the many interpretations of the Canadian federal system four stand out as especially relevant for an analysis of the new Accord. They are: "co-operative federalism"; "executive federalism"; the centralized federalism usually associated with former prime minister Trudeau; and finally the decentralized federalism typical of, for example, Quebec's historical negotiating position. Some combination of these four visions of Canadian federalism and of the workings of federal-provincial relations are often found in the arguments for and against the Accord.

Co-operative Federalism

- The most common interpretation of federal-provincial relations is known as "co-operative federalism." This view of the workings of Canadian federalism stresses the fact that although the various jurisdictions sometimes have conflicting interests, co-operation and joint undertakings are inevitable and beneficial.³ Such co-operation is inevitable because in modern, highly complex societies there exist many problems which can never be neatly defined constitutionally. Complex commercial undertakings are some of many such examples. That this co-operation has been beneficial can be seen in the health, welfare and education programmes jointly carried out by the two levels of government. The pattern of co-operation between federal and provincial governments is, on this theory, as much a result of social requirements as constitutional arrangements. W. R. Lederman, a leading constitutional authority, has argued that the constitution provides a backdrop and a framework for federal-provincial negotiations; it does not determine them.⁴ The need for co-operative federalism will, in his words, "remain under any new lists [of powers] we might succeed in drafting in the course of revision of the federal constitution. There will always be sweeping areas of need for integrated governmental action that will overlap the federal and provincial categories of powers and responsibilities."⁵

Executive Federalism

- The theory of "executive federalism" shares with that of co-operative federalism a belief in the importance of intergovernmental interaction in shaping the face of Canadian federalism. Like co-operative federalism, of which properly speaking it is a subset, adherents of the idea of executive federalism place greater emphasis on "administrative arrangements which make for coordination and integration of public policies," than on "formal constitutional structures."⁶ According to this model the distinguishing feature of the operation of Canadian federalism is the important role played by accommodations reached between the various Cabinet Ministers and between leading civil servants - in short between the political and administrative elites.⁷ "Thus in managing the ongoing federal system," wrote Donald Smiley, an eminent political scientist, "a very heavy load is borne by executive federalism, which may be defined as the relation between elected and appointed officials of the two orders of government in federal-provincial interactions."⁸ Because intergovernmental relations of the type described by this model involve small numbers of politicians and civil servants operating behind closed doors, this form of federal-provincial relationship has sometimes been criticized for being elitist and undemocratic. Critics prefer a more open process with greater consultation, even while often admitting the value of the results.

Centralized Federalism

- The trend towards greater centralization of legislative powers, and the justification for such a movement, are usually associated with the leadership and writings of former prime minister Pierre Trudeau. The Trudeau era, particularly during the last government he led, was marked by frequent attempts to assert the authority of the federal Parliament in setting policies and priorities. According to Roy Romanow, the "period of co-operative federalism was over." As part of its effort to bring a measure of uniformity to the various regions of Canada, "Ottawa announced [in 1981] that it would place 'national standards' or program conditions on medicare through a new health act and would pursue 'national' objectives in financing post-secondary education."⁹ Trudeau has expressed similar sentiments about the Meech Lake Accord. "There is a Canadian common good that overrides and enlarges the common good of each of the provinces. There must be an adherence for this national spirit to exist and there must be an adherence to this greater thing called Canada, a less sentimental, more rational adherence - but greater than the adherence to each of the individual provinces."¹⁰

Decentralized Federalism

- Against the view that only a stronger federal government can guarantee an acceptable level of services and rights for all Canadians, it is argued frequently that regional differences in Canada can only be preserved by a federal system in which the provinces have substantial power. Quebec has traditionally seen a strong provincial government as its best defense against the great weight of English culture and language in North America. Other regions as well, with specialized economies and unique local requirements, have periodically called for a shift in legislative and fiscal power away from national centres. They argue that local variations in the implementation of national programmes allow them to better respond to local conditions and to experiment with a greater variety of delivery mechanisms.

HISTORY OF FEDERAL-PROVINCIAL SPENDING AGREEMENTS

An important reason why the Canadian federal system is marked by so extensive a network of joint, shared-cost programmes – why, for example, the early judicial interpretation of the Constitution Act, 1867 establishing "water-tight compartments" of legislative competence was an impossible ideal – can be found in the 1867 Act itself. According to the BNA Act the federal Parliament has virtually unlimited power to tax. The provinces, on the other hand, were granted fewer sources of revenue as well as authority over those areas which, as society and its values evolved, have become more and more costly – health care, education and welfare. As a result, the provinces do not have a sufficient tax base to provide adequate services at the level demanded by the public. Similarly, the federal government generates more tax revenue than it needs to carry out its responsibilities as delineated in Section 91. These facts make federal transfers of funds to the provinces a necessity; and Ottawa has sometimes used this spending power to try to shape provincial policy.

Federal fiscal involvement in programmes nominally in areas of exclusive provincial jurisdiction is great. The federal government estimated that, during the fiscal year 1986–1987, it transferred to the provinces in direct cash grants and in tax room, \$10.7 billion for insured health services, \$1.1 billion for extended health care services, \$4.5 billion under the Canada Assistance Plan for social security, and \$4.2 billion for post-secondary education.¹¹ Although there are many other shared-cost programmes, these involve by far the greatest sums.

These joint undertakings in areas of exclusive provincial legislative competence are made possible by the historic right of the federal government to spend its tax revenue as it sees fit. Some provinces, especially Quebec, have from time to time challenged Ottawa's right to spend in areas of exclusive provincial jurisdiction, arguing both that the federal spending power is nowhere explicitly recognized in the constitution, and that it constitutes an infringement on provincial rights. They reason that the federal Parliament should not be allowed to do, by the power of its purse, what it cannot effect constitutionally.

The forms which these revenue sharing mechanisms for shared-cost programmes have taken have been many and diverse. Some highlights are:

- During World War II the provinces ceded to the federal government the right to tax personal and corporate income. In return the provinces received "tax rent," whereby the federal Parliament returned certain of the revenue to the provinces for their local needs. This system, which continued in all provinces but Quebec and Ontario until 1962, was not, strictly speaking, a shared-cost mechanism. It did, however, contribute to the fiscal intertwining of the two levels of government, setting the stage for future fiscal arrangements.
- The Meech Lake Accord also extends the right of provinces to opt-out of future constitutional amendments affecting a transfer of jurisdictional competence to Ottawa. Section 40 of the Constitution Act, 1982, which provided the right to opt-out of amendments affecting education and cultural matters, is now extended to cover all areas. There have been two notable instances of transfers of this kind in the past. In 1937 the Judicial Committee of the Privy Council ruled that the Employment and Social Insurance Act, designed to implement a national unemployment insurance scheme, was *ultra vires*. This led to the amendment of the BNA Act in 1940, adding unemployment insurance to the list of federal powers. After World War II, another amendment was passed granting to the federal government the right to institute an old age pension plan. Under the new Section 94A, however, the provinces retained the right to carry on pension plans of their own, as Quebec did with the simultaneous establishment of the Canada and Quebec Pension Plans.
- In 1958 cost-sharing of hospital insurance began. The federal government agreed to provide a cash grant equaling 50% of provincial expenditures for hospitals, provided that provincial programmes met certain minimum conditions.

- In 1965, with the enactment of the Established Programs Act, the federal government agreed to a scheme providing tax "room" to any province which wished to finance its own hospital insurance and welfare programmes. Under this formula the federal government would reduce its tax rate by an agreed upon amount in those provinces that opted for the new arrangement, thus allowing the provinces to increase their own taxes. The federal tax reduction was necessary to insure that tax-payers in opted-out provisions would not be taxed without benefit.
- In 1977, with the newly revised Federal-Provincial Fiscal arrangements and Federal Post-Secondary Education and Health Contributions Act, the federal Parliament switched from offering matching grants to block-funding. Under the new financing arrangement, the federal government no longer gave the provinces a certain percentage of their total expenditures, which would, therefore, fluctuate with changes in provincial expenditures. Instead, they now gave fixed sums for the various programmes with the promise that these would be adjusted periodically.¹²

Within each of these main forms of joint programme funding – matching grants, tax room, and block funding – there have been numerous variations. Often a single programme would be funded differently from province to province and from time to time. One advantage of this diversity is that it has given future legislators a wide range of funding options from which to choose. It is possible, for example, that future shared-cost national programmes institutionalized under Section 106A would resemble one of the previous programmes' funding mechanisms and types of conditions imposed.

A continuing source of concern for the provinces has been the conditions that have been imposed from time to time on provincial eligibility for grants under the shared cost programmes. In 1951, for example, the federal government began a programme of direct grants to universities. Quebec strenuously objected to this as an invasion of its jurisdiction and forbade its universities from accepting the federal money. Although the issue was settled in 1961 when the federal government agreed to increase by one point the federal income tax abatement to Quebec residents, provincial governments have periodically complained of the skewing of their spending priorities which occur when the federal government partially funds a programme.¹³

Even more controversial were the conditions imposed on provincial eligibility for health care grants. Under the Medical Care Act of 1966, the federal government agreed to provide financial assistance (50 percent of the costs) to any province whose programmes met four criteria: comprehensiveness of scope; universal coverage; public, non-profit administration; and portability of benefits.¹⁴ In 1984 these conditions were expanded to include the qualification that the provinces would be penalized if they permitted doctors to extra-bill patients, or if provinces imposed a user fee. These conditions have allowed Ottawa to exert substantial influence in the regulation of health care. Provincial objections to this use of spending power to affect legislation in an area of exclusive provincial jurisdiction helped motivate the provinces' desire for an opting-out-clause.

Section 106A of the Accord, which implies the existence of a federal spending power, has caused some to argue that it actually increases the federal power to initiate and implement national shared-cost programmes in areas of exclusive provincial jurisdiction. Peter Hogg and others have argued, however, that the federal Parliament has always had this power to spend. "The better view of the law," wrote Hogg, "is that the federal Parliament may spend or lend its funds to any government, or institution, or individual it chooses, for any purpose it chooses and that it may attach to any grant or loan any condition it chooses, including conditions it could not directly legislate . . . The broad interpretation of the federal spending power has been accepted by the federal government, of course, and probably by all provincial governments, despite occasional objections to federal intrusions on provincial autonomy . . . [This broad interpretation] is supported by the slender case-law and by most commentators."¹⁵

ANALYSIS OF SECTIONS 106A AND 40

Leading Authorities

Section 106A

"106A. (1) The Government of Canada shall provide reasonable compensation to the government of a province that chooses not to participate in a national shared-cost program that is established by the Government of Canada after the coming into force of this section in an area of exclusive provincial jurisdiction, if the province carries on a program or initiative that is compatible with the national objectives."

The leading authorities are divided both in their opinions as to the proper balance of powers between the two levels of government and in their appraisals concerning the likely impact the Accord will have on federal-provincial fiscal relations. Some, like former prime minister Trudeau, perhaps the most outspoken critic of the Accord, have argued that under the new constitutional arrangement the federal spending power, which has been seen as one of the most "powerful ways of developing a national sense of belonging," will be lost. Trudeau agrees with Premier Bourrassa's assessment, against that of Prime Minister Mulroney, that the opting-out provision of Section 106A will substantially reduce federal spending power.¹⁶ On the other hand, the 1987 Report of the Special Joint Committee of the Senate and the House of Commons argued that the Accord marked an important step forward in its explicit recognition of the federal spending power.¹⁷ It downplayed the worries that some have had that the national standards enforced by previous shared-cost programmes would be diminished. Still another large group of commentators feel that the Accord will have very little impact on federal-provincial fiscal relations. They argue that the Accord simply legalizes and legitimizes long-standing practices. They see federal-provincial relations as marked by negotiation and compromise, a process that will be continued under the new constitutional arrangements.

The following are a sampling of opinions. Among those who support the Accord are.

- Pierre Fortin, from the Université de Laval, has argued that the Accord represents the minimum gain that Quebec was willing to accept, and the maximum concession that English Canada could make in recognizing the distinctiveness of Quebec and in enhancing its legislative power. Section 106A is, in his view, a good compromise between the federal Parliament's right to "invade" areas of exclusive provincial jurisdiction, on the one hand, and the need for regional diversity in implementation, on the other.¹⁸
- Thomas Courchene, Roberts Professor of Canadian Studies at York University, denies that the Accord will lead to balkanization and to a fragmentation of national programmes. He has written that "while one cannot deny that the provinces may have gained something from the amendment, I am also suggesting that the federal government also gained something. Indeed, much of the concern in the province of Quebec over Meech Lake is that the provinces conceded too much here, particularly since opting-out with compensation was quickly becoming the norm with respect to the exercise of the federal spending power."¹⁹ Courchene does not believe that the Accord will adversely affect future shared-cost programmes like child-care, arguing that the flexibility that will likely be built into any new programming will make opting-out an improbable alternative.²⁰

Among those who oppose the Accord and Section 106A are:

- Deborah Coyne, from the University of Toronto Law School, has argued that the Accord dangerously weakens the power of the federal Parliament to implement national, universal social programmes. Furthermore, it places undue limits on the Charter, sapping its strength both as a protector of rights and freedoms and as a nationalizing ideal and symbol. However, she has reserved her strongest criticisms for the process whereby the agreement on the Accord was reached. She has protested that the process excluded those groups most in need of protection and whose voices are most in need of a public forum.²¹
- Former Senator Eugene Forsey, a noted expert on constitutional matters, also has reservations about the Accord. He is particularly disturbed by what he sees as the "ambiguities and obscurities" in the text, especially with reference to the distinct society clause, the sections dealing with the federal spending power and the proposals for immigration. He is also concerned with the rigidity imposed on the Canadian constitutional process by the changes in the amending formula requiring unanimous consent for certain changes. He is also worried that obscurities in the wording of Section 106A, in terms like "national objectives," "compatible" and "initiatives", may leave the federal treasury "open to a series of raids" from provinces whose programmes are mere "tokens".²²

However, a number of commentators are also of the opinion that the Meech Lake Accord embodies relationships and practices which are so close to present political realities as to have very little effect. Without necessarily agreeing or disagreeing with the worth of present practice, they argue that the Accord will make few changes in Canadian life. Among those who have argued this are:

- Stefan Dupré, from the political science department at the University of Toronto, has put forward the argument that because Section 106A is sufficiently vague and sufficiently close to embodying present practices, it is "reasonable to anticipate that Section 106A will have minimal consequences for the conduct of federal-provincial fiscal relations. If anything, it will simply reinforce a pattern of conduct that is in line with trends whose outline has emerged with growing clarity in recent years. I refer to (1) the tendency for federal-provincial initiatives to encompass matters that occupy the gray (sic) areas of the division of jurisdiction; (2) the growing prominence of bilateral federal-provincial shared-cost arrangements tailor-made to the particular economic and social circumstances of individual provinces; and (3) enhanced recourse to tax expenditure as a means of pursuing national and provincial objectives."²³

Section 40

"40. Where an amendment is made under subsection 38(1) that transfers legislative powers from provincial legislatures to Parliament, Canada shall provide reasonable compensation to any province to which the amendment does not apply."

Very little has been written on Section 40 and its possible effects on federal-provincial relations. There are several reasons why this is so. First of all, the new Section 40 is simply an extension of Section 40 of the Constitution Act, 1982. Under the earlier Act opting-out with compensation was permitted when provincial legislative competence was transferred to the federal Parliament in areas relating to education and cultural matters. These restrictions have now been lifted, and the new section covers all transfers of legislative power. It does not, however, establish a new constitutional principle. A second possible reason why little attention has been paid to the amendment is that its thrust or effect resembles that of Section 106A. Both proposed amendments deal with federal spending in areas of provincial or formerly provincial jurisdiction and the provinces now constitutionally guaranteed right to implement their own programmes with federal funds.

POSSIBLE SCENARIOS**Section 106A**

The likely scenarios which exist for future federal-provincial fiscal arrangements appear to depend, at least in the minds of many of the leading authorities, on the interpretation that the Supreme Court will give to the phrase in Section 106A "compatible with the national interest." There are three possible outcomes: a centralizing interpretation, wherein the province must adhere very closely to the specifics of the federal programme to qualify for compensation; a decentralizing ruling, giving much greater leeway to the provinces in establishing priorities and in administering programmes; and, finally, an ambiguous decision, or no decision at all, which would leave the matter constitutionally and legally unsettled, requiring that the 11 jurisdictions resolve the matter politically.

Centralizing Decision

One possible outcome of a court challenge or reference is a decision by the Supreme Court that only programmes adhering very closely to the "national objectives" would qualify for federal funds should they decide to opt-out. A ruling of this kind, hoped for by those like former prime minister Trudeau and others who are afraid that the Accord will weaken the power of the central government, will mean that the range of programme options available to a province wishing to opt-out would be fairly narrow. Under these circumstances one could expect that a relatively large number of provinces would like to mount their own programmes but would be unable to do so, raising the possibility of friction between Ottawa and the provinces.

Decentralizing Decision

Should the Supreme Court decide that "compatible with the national interest" is to be given a broad interpretation, it is, of course, much more likely that provinces would choose to opt-out. The variety and type of programmes that they could offer and still receive compensation from the federal government would be such as to make feasible the mounting of separate provincial programmes. However, one line of thought has argued that should this interpretation of "compatible with the national interest" predominate, it is possible that Ottawa would define the objectives of future shared-cost programmes in such a way as to allow room for differences in provincial implementation for provinces which remain within the programme. This freedom to implement programmes tailored to provincial needs within the federal shared-cost programme may prevent many provinces from opting-out. Should Ottawa proceed in this way - creating shared-cost programmes, like the present funding of post-secondary education, with considerable leeway for provisional variations - the provinces would opt-out in the main for non-programmatic reasons. They may still want to mount their own programmes for internal political considerations, for example.

An Ambiguous Decision

There are two possible routes that can be taken to arrive at an ambiguous or indecisive decision. All jurisdictions involved may feel that it is in their interest not to test the meaning of Section 106A in the courts, preferring to leave the matter unsettled. Or, alternatively, the courts may hand down a ruling which does not conclusively settle the issue. The Supreme Court may be reluctant to hand down a precise and unequivocal ruling, preferring, rather, to leave the matter to be settled by political compromise. Although it is difficult to predict with accuracy the positions that the various provinces may take, one popular line of thought is that the federal government and the provinces would enter into strenuous negotiations and would push hard for their positions, but in the end the pressure for compromise would be sufficient to insure that a deal be struck. Neither side would wish to see the issue reach a stalemate, and so, after sensing the limits of what they could achieve, would try to reach a compromise.

Section 40

One can expect that much the same sort of reasoning would be followed should there be a constitutional amendment involving a transfer of legislative competence. If Ottawa wishes to maintain some control over the implementation of the programme in question in the face of strong provincial opposition, they will have to make the guidelines or specifications of the programme implemented under the transfer such that it will be acceptable to the provinces. The main difference is that the role of the court in adjudicating disputes will be less with reference to the new Section 40 than it will be for Section 106A because no province can ever be forced to give up legislative competence. They must do so voluntarily; and if it will occur, it will be the result of federal-provincial negotiation.

Whatever may be the outcome of any future Supreme Court decisions regarding the federal spending or the scope of a province's right to opt-out of national shared-cost programmes, fiscal federalism will continue to be an important part of our national fabric. The very nature of a federal system of government both necessitates close co-operation between the two levels of government and demands hard and sometimes acrimonious bargaining as both sides forward the interests of their constituents.

FOOTNOTES

¹Canada, Parliament, Task Force on Federal-Provincial Fiscal Arrangements, Fiscal Federalism in Canada (Ottawa: Minister of Supply and Services Canada, 1981), p. 29.

²Ontario, Ministry of Treasury and Economics, Ontario Budget 1987 (Toronto: Queen's Printer, 1987). The figure for 1986-87 is 15.3 percent.

³In most of the literature "co-operative federalism" refers to the historical process of joint federal-provincial initiatives.

⁴W.R. Lederman, "Some Forms and Limitations of Co-operative Federalism," in Continuing Canadian Constitutional Dilemmas (Toronto: Butterworths, 1981), pp. 314-15.

⁵Idem, "Comments on Co-operative Federalism and Financial Responsibility in Canada," in Continuing Canadian Constitutional Dilemmas, p. 365.

⁶D. Smiley, "Public Administration and Canadian Federalism," Canadian Public Administration 7:3 (September 1964): 372.

⁷Idem, Canada in Question: Federalism in the Eighties, 3rd ed. (Toronto: McGraw-Hill Ryerson, 1980), pp. 94-5.

⁸Ibid., p. 91.

⁹R. Romanow, "Fiscal Arrangements: A Western Perspective," in Ottawa and the Provinces: The Distribution of Money and Power, eds. T. Courchene, D. Conklin and G. Cook (Toronto: Ontario Economic Council, 1985), pp. 186-7.

¹⁰"Accord Saps National Spirit Trudeau Says," Toronto Star, 29 August 1987.

¹¹Canada, Federal-Provincial Relations Office, A Descriptive Inventory of Federal-Provincial Programs and Activities in Operation During the Fiscal Year 1986-1987 (Ottawa: Minister of Supply and Services Canada, 1987), pp. 170, 179 and 220.

¹²The four preceding paragraphs are taken from K. Dowd and A. Sayeed, "Federal-Provincial Fiscal Relations: Some Background," in Ottawa and the Provinces: The Distribution of Money and Power.

¹³"Federal-Provincial Fiscal Transfers in Canada: Retrospect and Prospect," Canadian Tax Journal 35:1 (January - February 1987).

¹⁴Ibid., p. 126; and D. Hum, "Federal-Provincial Relations and the Canada Assistance Plan: a brief history," in Federalism and the Poor: A Review of the Canada Assistance Plan, Policy Study Series (Toronto: Ontario Economic Council, 1983).

¹⁵P. Hogg, Constitutional Law of Canada, 2d ed. (Toronto: The Carswell Co., 1985), p. 126.

¹⁶"A Warning from Trudeau," London Free Press, 31 August 1987.

¹⁷Canada, Parliament, Special Joint Committee on the 1987 Constitutional Accord, Report (Ottawa: The Committee, 1987), p. 74.

¹⁸P. Fortin, "The Meech Lake Accord and the Federal Spending Power: A Good Maximin Solution," paper presented to the Symposium on the Meech Lake Accord, University of Toronto, 30 October 1987, p. 1.

¹⁹T. Courchene, "Meech Lake and Federalism: Accord or Discord?" paper presented to the Symposium on the Meech Lake Accord, University of Toronto, 30 October 1987, p. 40.

²⁰*Ibid.*, p. 44.

²¹D. Coyne, "The Meech Lake Accord and the Spending Power Proposals: Fundamental Flawed," paper presented to the Symposium on the Meech Lake Accord, University of Toronto, 30 October 1987, pp. 1-3.

²²Canada, Parliament, Special Joint Committee on the 1987 Constitutional Accord, Minutes of Proceedings and Evidence, 33rd Parliament, 2d Session (4 August and 21 August 1987).

²³S. Dupré, "Section 106A and Federal-Provincial Fiscal Reactions" paper presented to the Symposium on the Meech Lake Accord, University of Toronto, 30 October 1987, p. 11.